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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,324	07/02/2001	Hiroyuki Makita	10973-051001	2061

26211 7590 10/02/2003

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EXAMINER

LIEU, JULIE BICHNGOC

ART UNIT	PAPER NUMBER
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2636

DATE MAILED: 10/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/897,324

Applicant(s)

MAKITA ET AL.

Examiner

Julie Lieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-12 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2&4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-4 and 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusagaya (US Patent No. 6,550,944).

Claim 1:

Kusagaya discloses a vehicle headlamp system, each of which contains a lamp unit within a lamp body for emitting beams forward with a predetermined luminous intensity distribution, comprising:

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- a. A vehicle-to-vehicle distance measuring means 114 for measuring the vehicle-to-vehicle distance between a first vehicle to a second preceding vehicle
- b. Variable luminous intensity control means 102-106 for varying the luminous intensity distribution according to the vehicle-to-vehicle distance when the speed of the first vehicle is high.

See col. 7, lines 25-50.

The reference fails to disclose that the luminous intensity distribution is varied when the speed of the first vehicle exceeds a predetermined value. Nonetheless, it would have been obvious to one skilled in the art to vary the luminous intensity distribution when the speed exceeds a predetermined value because there must be a predetermined threshold as to what is considered to be a high speed at which the beam varying is appropriate.

Claim 2:

Though not clearly stated in Kusagaya, it would have been obvious to one skilled in the art to fix the luminous intensity distribution, such as a low beam forming position as taught in the reference, which is used when the distance is shorter, meaning the vehicle is more apt moving at lower speed because it would be desirable to keep the first vehicle headlights in low beam to avoid causing glare towards the preceding vehicle.

Claim 3:

The luminous intensity distribution is a luminous intensity distribution having a cut-off line at an upper end, and wherein the variable luminous intensity control means varies the luminous intensity distribution by vertically moving the position of the cut-off line. See figs. 7-

9.

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Claim 4:

Though not clearly suggested in the reference, it would have been obvious to one skilled in the art to fix the cut-off line at the lowermost position while the speed of the first vehicle is kept at the predetermined value or lower because when the speed is low implying the inter-vehicular distance is short, thus, the beam should be kept in low beam position.

Claims 8 and 9:

The rejection of claims 8 and 9 recites what was discussed in the rejection of claims 1 and 2 respectively, except they are method claims.

Claim 10:

In Kusagaya, the luminous intensity distribution is varied by moving the position of a cut-off line.

Claim 11:

The rejection of claim 11 recites what was discussed in the rejection of claim 4 respectively, except it is a method claim.

Claim 12:

Though an auxiliary lamp is not taught in Kusagaya, it would have been obvious to one skilled in the art that auxiliary lamp such as day time running light is old and conventional in the art and is powered on together with the regular headlight system in a vehicle. This auxiliary light can be used in the vehicle in which the Kusagaya system is used in and the one on the right hand side of the vehicle would illuminate the shoulder of the road.

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Allowable Subject Matter

3. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 703-308-6738. The examiner can normally be reached on Mon-Thursday, 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 703-305-4717. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



Julie Lieu
Primary Examiner
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